

NASABA's "Making History" Conference
Keynote Address by U.S. Attorney Preet Bharara
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Sabita, thank you for that introduction. And thank you, NASABA for inviting me to speak here tonight.

A lot has happened since I spoke to this gathering in San Francisco almost exactly three years ago when NASABA honored me with its Lawyer of the Year award.

Back then I spoke about how I had gone from being a prosecutor in the Justice Department to a lawyer on the Senate Judiciary Committee investigating Attorney General Gonzales and the firing of U.S. Attorneys.

Since then, Attorney General Gonzales resigned under a cloud, a new President was elected, and I have now become a United States Attorney in my own right.

So, it has occurred to me that if my life turns out to be an O. Henry story, it means that I will myself be ignominiously fired within six months.

If, on the other hand, my life turns out to be a Bollywood film, it means that I will be permitted to serve out my full term happily, at the end of which I will lead my Office in a rousing dance sequence.

It is the great honor and privilege of my life to serve as United States Attorney for the Southern District of New York. I have a feeling that no matter how long I live, it will remain the great honor of my life.

In my ten months or so in office, we have dealt with every conceivable issue – whether it has been contemplating the trial of Khalid Sheik Mohammed in connection with 9/11 or pursuing and prosecuting the Times Square bomber; whether it has been handling the largest insider trading case in a generation involving the Galleon Group or continuing to obtain funds to return to the victims of Bernie Madoff.

Along the way, we have tried to clean up neighborhoods paralyzed by crime and enforce the civil rights laws wherever they are being violated – including in state prisons.

But perhaps even more daunting than the caseload we carry is the knowledge that I head an office that has employed, before me, countless numbers of lawyers who have literally made history.

Those who have served in the Southern District include lawyers who have gone on to become Mayor of New York, Governor of New York, Secretary of War, Secretary of Homeland Security, Attorney General, and Supreme Court Justice. Their names include Root, Dewey, Morgenthau, Harlan, and Frankfurter.

And so to follow in those footsteps, to inherit that history, to inhabit this position, is to be both humbled and inspired every day – humbled to be in the company of giants on whose shoulders I stand, and inspired by their example to serve justice and only justice in all that I do.

And lest I ever forget that legacy, in the hallway on the approach to my office is a wall of photographs of each of my predecessors. So I see their faces every single day.

I don't know that I will ever come close to living up to even the lesser of those legends. But I pledge to you – as I have pledged to the people in my District – to do my best every day.

Now, as much as I am reminded by that wall of photos of the massive shoes I have to fill, I am also frequently reminded of the special privilege it is to represent the United States of America as someone who was not even born in the United States.

That is a fact which says much more about America than it does about any abilities I may have.

Every story about an immigrant family's success in a new country is a familiar one – each of them is different, but also the same, for each is the story of a family making history in some small but special way.

One reminder of the poignance of the immigrant journey came in the form of a letter to me from the parents of an Assistant U.S. Attorney I had just hired. I'd like to share it with you:

“Dear Mr. Bharara: There are three occasions in our lives that have really stood out in reminding us of how proud we are to be Americans. The first occasion was when we became American citizens. The second occasion was standing at Mount Rushmore in front of our great Presidents' heads and singing the American Anthem. The third occasion was when you swore in our daughter [] as an Assistant United States Attorney.

“The . . . ceremony was heart wrenching and brought back the tears again of pride in America. I will never forget when you said to us that this is ‘reaching the American dream.’”

Another reminder came recently when I attended the investiture of Denny Chin to the Second Circuit Court of Appeals in New York. Judge Chin was born 56 years ago in Hong Kong and came to America when he was just two; his father worked as a cook in a Chinese restaurant; his mother was a seamstress.

And just days ago he swore an oath to become a judge on the second highest court in the land – and the only currently active Asian American circuit court judge in the country.

Other reminders abound –

- Judge Sabita Singh made history as the first South Asian judge in Massachusetts;
- Judge Amul Thapar became the first South Asian federal District Court judge in American history;
- And Judge Kiyo Matsumoto – whose Japanese parents were put in internment camps during World War II and whose family’s faith in American justice must truly have been tried – was sworn in recently as a federal District Court judge in Brooklyn. Her appointment, in a way, transcends history.

For my own part, my family’s journey also has taught me something about history and the American dream.

At my swearing-in last year, I talked a bit about my father’s reaction to my nomination. You see, for my whole life, my Dad was a studiously unemotional man.

But in the months leading up to my confirmation, he sometimes seemed a bit overwhelmed by the prospect of his son becoming the United States Attorney for the Southern District of New York.

But perhaps that was understandable for a man like my father, who was born 70 years ago, halfway across the globe, who grew up in a small village in Punjab, who lived for a time in a home without even basic plumbing, and who was the first member of his family ever to go to college.

He brought our family to this part of the world some 40 years ago, with only a few dollars in his pocket and a hope in his heart that we would have a better life in this country and that his children might, one day, amount to something in America.

And so, when you are an Indian immigrant who becomes a naturalized citizen at age 12, who later becomes chief counsel to a United States Senator, and who later still is nominated by the first African-American president to become the first Asian-American U.S. Attorney in Manhattan, you begin to believe that anything is possible in America.

And when you are then confirmed as U.S. Attorney even though your name is Preet Bharara; when you understand that your photo will nonetheless one day hang on that wall alongside people with names like Robert M. Morgenthau and Henry L. Stimson and Whitney North Seymour, Jr.; when your father came from nothing and you have everything, then you know anything is possible in America.

In fact, I sometimes feel that I will not have enough breaths in my body to give back what I feel I owe my country.

So, on the one hand, when we think about what it means to make history, I understand and appreciate a family's pride and a community's excitement when one of its own makes a mark.

It's the historical arc – leading ever upward – that every immigrant hopes his family will draw.

But at the end of the day, whether you are lucky enough to wear a robe or wield a subpoena, neither I nor Sabita nor Amul nor anyone else will ultimately be judged on the fact that we were the first South Asian this or the second South Asian that.

In my view, there is not necessarily much achievement in merely securing a high position. What you do when you get there is what counts.

Because a South Asian can fail just as miserably as anyone else.

At the end of the day, we should not understate the importance of these milestones, but we should not overstate them either.

It is the quality of one's work and the strength of one's leadership and the power of one's vision that ultimately establishes everyone's place as a pioneer or a placeholder.

And there are people all over the world who have never been appointed to anything who have been the most consequential champions of justice and catalysts of progress.

So, I want to spend a few moments speaking about a vision for making history with reference to a particular bond that I think we in this room all share. And it is not ethnicity or country of origin or citizenship or immigrant status.

As these things go, this is actually a very diverse group -- there are people here originally from India and also from Pakistan and Bangladesh; some were born in South Asia, some in North America; some follow one faith, some another; some are citizens, some are permanent residents; you live in a variety of diverse American states and Canadian provinces. And I think there's even a Yankee fan or two here.

But if you measure making history not merely as a contest to be the first in line to a position, but rather as an exercise in making a difference; if making history means making historically significant strides to improve the lot others, or to solve society's most intractable problems, or to conform our institutions to our ideals, then you find that the accidental attributes of ethnicity and birthplace tend to fade in importance.

Meanwhile, deliberate commitments to certain values and principles gain in significance.

The bond we do share, I hope, and that may be of the greatest and most relevant consequence is this: a commitment to the rule of law and an appreciation for the values and principles that inform our legal tradition.

Though we lawyers are much maligned, I continue to believe in the increasingly quaint and uncommon view that to become a lawyer is to join a noble profession.

I continue to believe also that there is no one better situated to promote equality, preserve liberty, and prevent cruelty than the person who has genuinely dedicated himself to becoming both a master and a servant of the law.

And now, more than ever, on issues of national and global consequence, the qualities of the greatest lawyers are badly in need.

What qualities do I mean?

I am not talking about the ability to quickly research legal questions or cut a witness to pieces on cross examination or put together a billion-dollar leveraged buyout overnight.

That may signify great lawyering; but it doesn't necessarily signify a great lawyer in the way I mean.

So what way do I mean?

In my view, lawyers in the grand tradition have all of the following qualities, some of which can be in tension and which the truly great lawyer knows how to hold in equipoise:

- An adherence to principle, but also a capacity for pragmatism;
- Respect for our democratic institutions, but also a yearning for their improvement;
- A penchant for passionate advocacy, but also an appreciation for moderation;
- Skill in being an adversary without being an enemy;
- The wisdom to learn and understand both sides of an issue;
- And the ability to view all parties – whether criminal defendants or victims or witnesses – always as human beings with dignity and self worth.

In the end, giving yourself to the law is an act of almost spectacular idealism, for it bespeaks an abiding faith in the possibility of self-governance, rationality, and the peaceful resolution of disputes.

And it is that idealism – coupled with skill and judgment – that needs to be brought to bear on our most difficult problems.

And we have our share of crises, as you'll agree.

To be sure, we have always had problems and challenges. But many modern problems do seem somehow more massive, more magnified, more menacing.

Some of these challenges I know about firsthand, as U.S. Attorney.

- There was a time – before Nidal Hasan at Fort Hood and Faisal Shahzad in Times Square – when we did not have to worry, in this country at least, that terrorists might be home-grown rather than foreign-based.
- There was a time – before Bernie Madoff – when we measured fraud by the million, rather than by the billion.
- And there was a time – before the financial meltdown of 2007 – when we did not have to worry that the failure of a single company might send the entire economy into a tailspin.

Those days are no more. And there are other problems still.

There are modern pirates on the high seas, and there is now oil in our seawater. And of course, there is still sickness and starvation. There is still hatred and injustice and intolerance.

Even the mere mitigation of some of the causes of these problems would be a history-making accomplishment.

In other ways too we need to revive the tradition of lawyers as solvers of problems and voices for progress.

It is often suggested that one person can't make a difference. But consider how much power a lawyer can exert:

- One lawyer, armed with courage and a well-drafted complaint, can reverse a longstanding government abuse or bring a misbehaving industry to its knees.
- One lawyer, armed with a searching mind and an obsession for truth, can exonerate an innocent man, falsely charged.
- One lawyer, armed with an idea and a vision of justice, can plant the seeds for a long-lasting movement for reform.
- And one lawyer – motivated by conscience, guided by principle, and empowered by training – can set an example for a generation of future lawyers.

The potential power of a law degree is, I believe, unmatched in American society.

I think it is not an overstatement to suggest that the power of your degree gives you a degree of power that few possess, fewer know how to use, and fewer still know how to put to good purpose.

People spend their entire lives waiting for the opportunity to do something meaningful, to make a difference in the world. For so many people, that moment never comes. Lawyers, simply by virtue of their law degree, have that opportunity every single day. I hope more people seize that opportunity.

Now, history teaches that progress, though often painfully elusive, is possible. But it cannot be achieved by those who are faint of heart or weak of mind or empty of imagination.

And so as we reflect on what history others have made and what history we may ourselves make, it is critically important to remember one abiding human truth.

It is something well expressed by one of the most celebrated lawyers of all time, Supreme Court Justice Oliver Wendell Holmes, who once said: "What lies behind us and what lies before us are tiny matters compared to what lies within us."

And so I hope that what lies within all of you – as great lawyers and good citizens – is an inclination towards courage, a bias towards justice, an aversion to apathy, and an appetite for challenge.

It will take all of those qualities – and more – to raise up the reputation of our profession and, perhaps in the process and in a meaningful way, to make history.

Thank you.